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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/661,091 | 09/12/2003 | Denis Marchand | SWOR121712 | 6591 |
| 26389 | 7590 | 03/31/2006 | EXAMINER | |
| CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC | | | CHEN, JOSE V | |
| 1420 FIFTH AVENUE | | | ART UNIT | |
| SUITE 2800 | | | PAPER NUMBER | |
| SEATTLE, WA 98101-2347 | | | 3637 | |

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,091

Applicant(s)

MARCHAND, DENIS

Examiner

José V. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28, 39-44, 49-53, 56-60 and 67 is/are pending in the application.
- 4a) Of the above claim(s) 13, 26-28, 39-44, 53, 56-60 and 67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-25 and 49-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ✓ 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ✓ 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Note the use of the expression "invention".

Election/Restrictions

Applicant's election without traverse of Figs. 1, 2 (claims 1-12, 14-25, 49-52) in the reply filed on 01/17/06 is acknowledged. It is noted that claim 67 is directed to the embodiment of figure 3 and has been withdrawn as such.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 14-23, 49-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite in that the

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bearing portion is defined by an indefinite structure (a user's forearm). Clarification and/or correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-10, 14-23, 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch in view of Plotzker et al. The patent to Welch teaches structure substantially as claimed including a planar member having a peripheral edge, a top surface, a bottom surface having a bearing portion adjacent to the edge, the planar member having a triangular configuration, a supporting member the only difference being that the bearing portion is not specifically dimensioned for resting on a forearm and the supporting member is not a handle. However, the patent to Plotzker et al teaches the use of providing a handle member with a padded bearing member to

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bear against a forearm. It would have been obvious at the time of the invention to modify the structure of Welch to include a the support member formed as a handle and a padded bearing member, as taught by Plotzker et al since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed. The method would have been obvious in view of the structure.

Claims 11, 12, 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch in view of Plotzker et al as applied to the claims above, and further in view of Bott et al. The patent to Welch in view of Plotzker et al teaches structure substantially as claimed as discussed above including a peripheral edge portion, the only difference being that the edge portion is not contoured in the form of a recess. However, the patent to Bott et al(at 12) teaches the use of providing a contour for better ergonomics to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Welch to include a contour for better ergonomics since such structures are conventional structures used in the same intended purpose thereby providing structure as claimed.

Conclusion

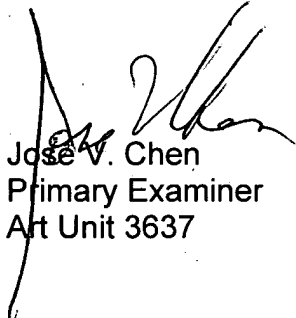
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Sillman et al, Olson, Delaney, Blanchard, McMillan teach structure similar to applicant's.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jose V. Chen
Primary Examiner
Art Unit 3637

Chen/jvc
03-23-06